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Attorney for Roger G. Segal, Chapter 7 Trustee

IN THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION

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In re: )  
 )  
BACK, CHRISTINA A. ) Bankruptcy No. 12-32268 WTT  
 ) (Chapter 7)  
Debtor. )

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**TRUSTEE'S MOTION FOR AN ORDER AUTHORIZING SALE OF DEBTOR'S  
INTEREST IN CERTAIN PROPERTY TO JOHN ALLAN GARCIA**

Roger G. Segal, the duly appointed, qualified and acting Chapter 7 Trustee for the above-captioned Debtor's bankruptcy case, by and through his counsel of record, hereby moves the Court pursuant to 11 U.S.C. §363 and Rule 6004 of the Federal Rules of Bankruptcy Procedure for an order authorizing the Trustee to sell the Debtor's and the bankruptcy estate's interest in certain property to John Allan Garcia ("Garcia"). In connection herewith this Motion the Trustee states as follows:

1. This Court has jurisdiction of this Motion as set forth in, *inter alia*, 28 U.S.C. §§157 and 1334, and the matters pertaining to this Motion are core proceedings as defined by 28 U.S.C. §157(b)(2). Venue is proper pursuant to 28 U.S.C. §1409.

2. The Debtor filed her voluntary Chapter 7 petition on September 25, 2012. Shortly thereafter Roger G. Segal (“Trustee”) was appointed to serve as Chapter 7 Trustee for the Debtor’s bankruptcy case and at all times thereafter he has so served.

3. Garcia is the Debtor’s husband. The Debtor and Garcia have been involved in a divorce proceeding in Utah since 2010.

4. In this bankruptcy proceeding Garcia is represented by Michael F. Thomson of Dorsey & Whitney LLP.

5. Garcia has offered to purchase and the Trustee has agreed to sell to Garcia the Debtor’s and the bankruptcy estate’s interest, if any, in the following described property (collectively the “Property”):

- a. A 2003 Ford F-350 vehicle;
- b. Real property with improvements thereon located at what is commonly known as 4088 West 1820 South in South Salt Lake City, Utah;
- c. Any and all interest in monies paid or to be paid by the Utah Department of Transportation in connection with the real property described in subparagraph b. above, including but not limited to, funds held by the law firm of Jones, Waldo, Holbrook & McDonough in its trust account; and
- d. A World Mark by Wyndham timeshare interest.

6. Garcia has agreed to pay to the Trustee eight thousand dollars (\$8,000.00) for purchase of the Debtor's and the bankruptcy estate's interest, if any, in the Property ("Purchase Price"). The Purchase Price is payable in full to the Trustee by no later than fifteen (15) days following an Order of this Court granting this Motion.

7. The Debtor claimed a \$2,500.00 exemption concerning the Ford F-350 vehicle, which claim of exemption was not timely objected to by any party in interest. Accordingly, if Garcia pays the Purchase Price then the Trustee will pay to the Debtor \$2,500.00 for her claimed exemption in the Ford F-350 vehicle.

8. The sale by the Trustee to Garcia of the Property is free and clear of any and all claims or interests of the Debtor or her bankruptcy estate in the Property. Except for the preceding sentence, the sale of the Property to Garcia is not free and clear of any lien or other claims or interests and therefore the sale does not alter or affect any existing lien or encumbrance affecting the Property. The sale of the Property by the Trustee to Garcia is in an "as is, where is, with all faults" condition, and such sale is without warranty or representation of any kind whatsoever, expressed or implied, at law or at equity, by the Trustee or the Debtor's bankruptcy estate. If the sale is not approved by this Court or does not timely close as set forth in paragraph 6 above, then the rights of the Trustee and the Debtor's bankruptcy estate in the Property will remain in full effect as if no sale had occurred.

9. Counsel for Garcia (Michael F. Thomson) has reviewed this Motion and agrees that the terms and conditions of the sale of the Debtor's and the bankruptcy estate's interest in the Property, if any, to Garcia is accurately and fully set forth in this Motion.

10. The Trustee believes in the exercise of his business judgment that the subject sale to Garcia is fair, reasonable and in the best interest of creditors in that the Trustee is informed and believes that the Purchase Price is appropriate and by entering into the sale the Trustee is able to liquidate the estate's interest in the Property without undue administrative expenses (sales costs and attorneys fees) and without having to become involved in the divorce proceeding between the Debtor and Garcia.

11. The Trustee reserves the right not to proceed with the proposed sale or this Motion if before the Court enters an Order granting this Motion the Trustee learns of facts which in his sole and absolute discretion results in the Trustee concluding that the Purchase Price is inadequate.

WHEREFORE, the Trustee respectfully requests that the Court enter an order providing as follows:

- a. Authorizing the Trustee to sell the Debtor's and the bankruptcy estate's interest, if any, in the Property to Garcia as set forth in this Motion and authorizing the Trustee to pay the Debtor the \$2,500.00 exemption amount for the Ford F-350 vehicle;
- b. Authorizing the Trustee to take all steps necessary to complete the bankruptcy estate's sale of the Property to Garcia, including the execution and delivery of documents necessary to effectuate the sale; and

c. For such other and further relief as the Court deems appropriate under the circumstances.

**DATED** this 8<sup>th</sup> day of April, 2013.

COHNE, RAPPAPORT & SEGAL, P.C.

  
\_\_\_\_\_  
Vernon L. Hopkinson  
Attorney for Roger G. Segal, Chapter 7 Trustee

**CERTIFICATE OF SERVICE - BY NOTICE OF ELECTRONIC FILING CM/ECF**

I hereby certify that on the 8<sup>th</sup> day of April, 2013 I electronically filed the foregoing **TRUSTEE'S MOTION FOR AN ORDER AUTHORIZING SALE OF DEBTOR'S INTEREST IN CERTAIN PROPERTY TO JOHN ALLAN GARCIA** with the United States Bankruptcy Court for the District of Utah by using the CM/ECF system. I further certify that the parties of record in this case, as identified below, are registered CM/ECF users and will be served through the CM/ECF system.

Scott T. Blotter scott@scottblotterlaw.com,  
scottblotterecf@gmail.com;frontdesk@scottblotterlaw.com;susan@scottblotterlaw.com;s  
cott@scottblotterlaw.com

Vernon L. Hopkinson vern@crslaw.com

Roger G. Segal tr Roger@crslaw.com, rsegal@ecf.epiqsystems.com

United States Trustee USTPRegion19.SK. ECF@usdoj.gov

**CERTIFICATE OF SERVICE - MAIL, OTHER**

I hereby certify that on the 8<sup>th</sup> day of April, 2013 I caused to be served a true and correct copy of the foregoing **TRUSTEE'S MOTION FOR AN ORDER AUTHORIZING SALE OF DEBTOR'S INTEREST IN CERTAIN PROPERTY TO JOHN ALLAN GARCIA** as follows:

Mail Service - By regular first class United States mail, postage fully pre-paid, addressed to:

Michael F. Thomson  
Dorsey & Whitney LLP  
136 S. Main Street, #1000  
Salt Lake City, UT 84101

Mail Service to Entire Matrix - By regular first class United States mail, postage fully pre-paid, addressed to all parties who did not receive electronic service as set forth herein listed on the Official Mailing Matrix dated April 8, 2013 attached hereto.



Label Matrix for local noticing

1088-2

Case 12-32268

District of Utah

Salt Lake City

Mon Apr 8 10:48:26 MDT 2013

America First Credit Union

PO Box 3288

Ogden, UT 84409-1288

ARS

PO Box 469046

Escondido, CA 92046-9046

AT&T

PO Box 30218

Los Angeles, CA 90030-0218

Christina A Back  
5078 Rock Butte Road  
Herriman, UT 84096-7779

Bank Of America  
Po Box 982238  
El Paso, TX 79998-2238

Scott T. Blotter  
Scott T. Blotter and Associates, PLLC  
735 East 9000 South  
Suite 200  
Sandy, UT 84094-3090

Brighton Bank  
311 South State Street  
SLC, UT 84111-5224

Chase  
Chase Card Services  
Po Box 15298  
Wilmington, DE 19850-5298

Chase  
P.O. Box 15298  
Wilmington, DE 19850-5298

Chase  
Po Box 24696  
Columbus, OH 43224-0696

Chase  
Po Box 901039  
Fort Worth, TX 76101-2039

Chase Manhattan Mortgage  
Attn: Bankruptcy Dept  
Po Box 24696  
Columbus, OH 43224-0696

Christopher Back  
5078 Rock Butte  
Herriman, UT 84096-7779

Citibank Sd, Na  
Attn: Centralized Bankruptcy  
Po Box 20507  
Kansas City, MO 64195-0507

Creditors Financial Groups LLC  
PO Box 440290  
Aurora, CO 80044-1500

Dr. Douglas M. Woseth  
Leonard J Swinyer MD  
1548 E 4500 S, Ste 202  
Salt Lake City, UT 84117-5209

Flagstar Bank  
Attn: Bankruptcy Dept  
5151 Corporate Dr  
Troy, MI 48098-2639

GEMB/ Dillards  
Attn: Bankruptcy  
Po Box 103104  
Roswell, GA 30076-9104

Gemb/dillards Dc  
Attn: Bankruptcy  
Po Box 103104  
Roswell, GA 30076-9104

Hilco Receivables/Equable Ascent Financi  
Attn: Bankruptcy  
1120 Lake Cook Road Suite B  
Buffalo Grove, IL 60089-1970

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Jones, Waldo, Holbrook & McDonough  
170 S Main St Suite 1500  
SLC, UT 84101-1644

Key Bank Nw  
1101 Pacific Avenue  
Tacoma, WA 98402-4396

Mountain West Small Business Finance  
2595 East 3300 South  
SLC, UT 84109-2727

Nordstrom FSB  
Recovery/ Bankruptcy Department  
Po Box 6555  
Englewood, CO 80155-6555

Norman Townsend & Johnson/Brad Townsend  
230 S 500 E Suite 200  
SLC, UT 84102-2023

Rc Willey Home Furnishings  
Attn: Bankruptcy  
Po Box 65320  
Salt Lake City, UT 84165-0320

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257 East 200 South  
Suite 700  
P.O. Box 11008  
Salt Lake City, UT 84147-0008

Treo Management  
5052 Wind Rock Lane  
Herriman, UT 84096-7259

United States Trustee  
Ken Garff Bldg.  
405 South Main Street  
Suite 300  
Salt Lake City, UT 84111-3402

Unvl/citi  
Attn.: Centralized Bankruptcy  
Po Box 20507  
Kansas City, MO 64195-0507

Victoria's Secret  
Attention: Bankruptcy  
Po Box 182125  
Columbus, OH 43218-2125

Washington Mutual Mortgage/ Chase Home F  
Attention: Bankruptcy Dept. JAXA 2035  
7255 Bay Meadows Way  
Jacksonville, FL 32256-6851

End of Label Matrix  
Mailable recipients 35  
Bypassed recipients 0  
Total 35